

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
RICHARD W. NAGEL
CLERK OF COURT

2017 AUG 21 PM 3:21

TOBY D. WILCOX,

Petitioner,

v.

CASE NO. 2:17-cv-604

JUDGE MICHAEL H. WATSON
Magistrate Judge Kimberly A. Jolson

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
DIV. COLUMBUS

TOLEDO CORRECTIONAL
INSTITUTION,

Respondent.

OPINION AND ORDER


On August 1, 2017, the Magistrate Judge issued a Report and Recommendation ("R&R") pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be transferred to the United States Court of Appeals for the Sixth Circuit as successive. ECF No. 4. Although the parties were advised of the right to file objections to the Magistrate Judge's R&R, and of the consequences of failing to do so, no objections have been filed.

The R&R, ECF No. 4, is **ADOPTED** and **AFFIRMED**. The Petition is **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit as successive.

Pursuant to Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, the Court now considers whether to issue a

certificate of appealability. However, Petitioner has waived the right to appeal by failing to file objections to the Magistrate Judge's R&R. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). The Court therefore **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.


MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT